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12 **BEFORE THE**
13 **BOARD OF REGISTERED NURSING**
14 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

15 In the Matter of the Statement of Issues Against:

Case No.

2008-3421

16 **OLIVIA SUND**

930 Magnolia

17 Costa Mesa, CA

STATEMENT OF ISSUES

18 Respondent.

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20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 **PARTIES**

- 22 1. Complainant brings this Statement of Issues solely in her official capacity
23 as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.
- 24 2. On or about December 19, 2007, the Board of Registered Nursing received
25 an application for a registered nursing license from Olivia Sund (Respondent). On or about
26 November 14, 2007, Olivia Sund certified under penalty of perjury to the truthfulness of all
27 statements, answers, and representations in the application. The Board denied the application on
28 March 10, 2008.

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3. This Statement of Issues is brought before the Board of Registered

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4. Section 2736 of the Business and Professions Code (Code) provides, in

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6. Business and Professions Code (“Code”) section 2750 provides, in

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1 herself, any other person, or the public or to the extent that such use impairs
2 his or her ability to conduct with safety to the public the practice authorized
3 by his or her license.

4 9. Code section 492 states, in pertinent part,

5 Notwithstanding any other provision of law, successful completion of
6 any diversion program under the Penal Code, or successful completion of an
7 alcohol and drug problem assessment program under Article 5 (commencing
8 with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code,
9 shall not prohibit any agency established under Division 2 (commencing with
10 Section 500) of this code, or any initiative act referred to in that division, from
11 taking disciplinary action against a licensee or from denying a license for
12 professional misconduct, notwithstanding that evidence of that misconduct
13 may be recorded in a record pertaining to an arrest.

14 10. Code section 482 states:

15 Each board under the provisions of this code shall develop criteria to
16 evaluate the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.
19 Each board shall take into account all competent evidence of rehabilitation
20 furnished by the applicant or licensee.

21 REGULATIONS

22 11. Section 1445(b) of the Regulations states:

23 (a) When considering the denial of a license under Section 480 of the code, the
24 board, in evaluating the rehabilitation of the applicant and her/his present
25 eligibility for a license will consider the following criteria:

26 (1) The nature and severity of the act(s) or crime(s) under
27 consideration as grounds for denial.

28 (2) Evidence of any act(s) committed subsequent to the act(s)
or crime(s) under consideration as grounds for denial which also
could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or
crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms
of parole, probation, restitution, or any other sanctions lawfully imposed
against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a license

1 on the grounds that a registered nurse has been convicted of a crime, the
2 board, in evaluating the rehabilitation of such person and her/his
eligibility for a license will consider the following criteria:

3 (1) Nature and severity of the act(s) or offense(s).

4 (2) Total criminal record.

5 (3) The time that has elapsed since commission of the act(s)
6 or offense(s).

7 (4) Whether the licensee has complied with any terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against
the licensee.

9 (5) If applicable, evidence of expungement proceedings
pursuant to Section 1203.4 of the Penal Code.

10 (6) Evidence, if any, of rehabilitation submitted by the licensee.

11 **FIRST CAUSE FOR DENIAL**

12 **(Use of Alcohol to an Extent or in an Manner
13 Dangerous or Injurious to Oneself and Others)**

14 12. Respondent's application is subject to denial pursuant to Business and
15 Professions Code section 480, subdivision (a) (3) in conjunction with Code sections 2761,
16 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
17 subdivision (b), in that Respondent used alcoholic beverages to an extent or in a manner
18 dangerous or injurious to herself, others, and the public, as described below.

19 13. On or about July 2, 2007, a hospital security guard observed Respondent
20 inside a motor vehicle in the hospital parking lot and she appeared to be drinking from a bottle
21 concealed in a brown paper bag and acting intoxicated. The security officer called the police and
22 reported Respondent's conduct. Respondent then drove said motor vehicle across the hospital
23 parking lot, parked in a "ten-minute" parking area in front of the hospital, and entered the
24 hospital. A police officer arrived soon thereafter. As the security guard told the police officer
25 about Respondent driving her car across the parking lot, Respondent exited the hospital and
26 walked toward them. Respondent admitted recently driving her car and parking it in front of the
27 hospital, as reported by the security guard. Respondent performed a chemical breath test. Said
28 test determined Respondent had a blood alcohol content of 20 percent by weight, approximately

1 twice the legal limit in the state of Oregon. Respondent was arrested for driving under the
2 influence of intoxicants.


3 14. On or about September 24, 2007, in the criminal proceeding titled *State of*
4 *Oregon v. Olivia Sund* (Circuit Court of Oregon, Third Judicial District, Case No. 07C48766),
5 Respondent pled guilty, as charged, to violating the state of Oregon statute (ORS) section
6 813.010 (driving while under the influence of intoxicants (DUII), a misdemeanor crime). The
7 court accepted respondent's guilty plea. However, the court withheld entry of a judgment of
8 conviction in the case because Respondent was accepted into the Oregon Diversion Program as
9 an alternative to traditional criminal sentencing. The Oregon court approved Respondent's
10 request to perform her diversion program requirements in Orange County, California.
11 Respondent is scheduled to complete her court-ordered diversion program requirements on or
12 about June 24, 2008.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Denying the application of Olivia Sund for a registered nursing license;
17 2. Taking such other and further action as deemed necessary and proper.

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19 DATED: 6/16/08

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22 RUTH ANN TERRY, M.P.H., R.N.
23 Executive Officer
24 Board of Registered Nursing
25 State of California
26 Complainant